

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON JUDICIARY**

**Call to Order:** By **CHAIRMAN JIM SHOCKLEY**, on February 13, 2001 at 8:00 A.M., in Room 137 Capitol.

#### **ROLL CALL**

**Members Present:**

Rep. Jim Shockley, Chairman (R)  
Rep. Paul Clark, Vice Chairman (D)  
Rep. Jeff Laszloffy, Vice Chairman (R)  
Rep. Darrel Adams (R)  
Rep. Gilda Clancy (R)  
Rep. Aubyn A. Curtiss (R)  
Rep. Bill Eggers (D)  
Rep. Steven Gallus (D)  
Rep. Gail Gutsche (D)  
Rep. Christopher Harris (D)  
Rep. Linda Holden (R)  
Rep. Joan Hurdle (D)  
Rep. Jeff Mangan (D)  
Rep. Brad Newman (D)  
Rep. Mark Noennig (R)  
Rep. Ken Peterson (R)  
Rep. Diane Rice (R)  
Rep. Bill Thomas (R)  
Rep. Merlin Wolery (R)  
Rep. Cindy Younkin (R)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** John MacMaster, Legislative Branch  
Mary Lou Schmitz, Committee Secretary

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: **HB 66 - 2-08-01**

Executive Action: **HB 465 - POSTPONED**

HB 66 - DPAA 13-5

HB 290 - DPAA 18-0

HB 360 - DPAA 19-0

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**HEARING ON HB 66**

**Sponsor:** Rep. Christopher Harris, HD 30 said HB 66 is a very straightforward housekeeping measure. There are many things in the Montana Code Annotated such as antiquated laws still on the books. He cited a few examples. It will be a task of a Commission to identify those that are obsolete, illogical, inconsistent or those to be repealed. It is his belief the work of the Commission could be accomplished with staffing provided by the Legislative Services Division. Mr. MacMaster and his colleagues know their sections of the code very well. The Commission would simply follow them on an as-needed basis as they reviewed those titles. There is a suggestion to add two more members to the Commission, an appointee of the Superintendent of Public Instruction and the Secretary of State and he would consider amendments.

**Proponents:** Jeff Weldon, Legal Counsel for the Office of Public Instruction, said this is a good government bill. Occasionally, Interim committees will focus on certain sections of the Code or certain topical areas but never take an aggregate approach and that is the greatest asset this Bill has. He approves adding the two suggested executives and he does not think it will increase the cost much.

**Janice Doggett, Chief Counsel to Secretary of State, Bob Brown,** said this is a good endeavor to undertake for the next two years.

**Brenda Elias, Deputy Securities Commissioner for State Auditor, John Morrison.**

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**Pam Bucy, Assistant Attorney General, on behalf of Mike McGrath, Attorney General.**

**Opponents:** None

**Questions from Committee Members and Responses:** Rep. Clancy to Rep. Harris concerning a fiscal note and his own view is the true fiscal note would be less than \$25,000. He bases that on what kind of fees an attorney who is familiar with the Code would charge if an additional part-time attorney had to be hired. He

feels the Legislative Services Division and the attorneys and other staff working in the Division know their sections of the code well and are already aware of the dysfunctional provisions that exist.

**Rep. Mangan, to Rep. Harris** for clarification. In answer to his question, **Rep. Harris** said the reason he wouldn't suggest 20 members on the Commission is this Commission needs to be appointed by the body of Constitutional officers. They need to exercise their independent judgement as to what they deem to be obsolete or consistent.

**Rep. Peterson** asked if **Rep. Harris** thinks they should include another provision concerning fragmented laws. **Rep. Harris** said that is an excellent suggestion. There are cross-references to related provisions and adding fragmented provisions makes a great deal of sense.

**Rep. Thomas** to **Rep. Harris** for clarification concerning salaries. **Rep. Harris** said they are not getting any compensation, other than expenses.

**Rep. Curtiss** to **John MacMaster**. **Mr. MacMaster** said the Code Commissioner Bill is a Bill that is introduced every session of the legislature. His office tracks complaints regarding errors in the MCA and this is ongoing.

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**Reps. Noennig, Eggers** to **Rep. Harris** with suggestions.

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**Closing by Sponsor:** **Rep. Harris** closed the Hearing on HB 66.

#### **EXECUTIVE ACTION ON HB 465**

**Motion:** **REP. Newman** moved that **HB 465 DO PASS. #1**

**Discussion:** **Reps. Mangan, Clark, Wolery, Rice, Hurdle, Adams, Curtiss, Newman, Peterson, Harris, Thomas, Laszloffy,** gave views for and against the death penalty.

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**Motion/Vote:** **REP. ADAMS** moved that **HB 465 BE TABLED. #2 Motion** failed 10-10.

Discussion: Reps. Gallus **EXHIBIT**(juh36a01) Eggers, Mangan, Gutsche,

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Vote: Rep. Newman's Do Pass Motion (#1) failed 10-10

Motion: REP. NOENNIG moved that HB 465 be postponed. #2

Discussion: Rep. Noennig, Clancy, Gallus, Younkin, Mangan.

Vote: Motion to postpone carried 12-8 with Reps. Shockley, Eggers, Gallus, Gutsche, Harris, Hurdle, Newman and Wolery voting no.

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EXECUTIVE ACTION ON HB 66

Motion: REP. HARRIS moved that HB 66 DO PASS. #3

Motion/Vote: REP. PETERSON moved that HB 66 BE AMENDED to add to language the word "fragment". #4 The motion carried unanimously 20-0.

Motion: REP. GUTSCHE moved that HB 66 BE AMENDED. #5  
**EXHIBIT**(juh36a02)

Discussion: Reps. Gutsche, Laszloffy, Noennig, Peterson.

Vote: The Gutsche amendment carried 19-1 with Rep. Laszloffy voting no.

Motion: REP. HARRIS moved that HB 66 DO PASS AS AMENDED. #6

Discussion: Reps. Adams, Harris, Noennig, Hurdle, Holden on Interim studies.

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Further Discussion: Reps. Mangan, Hurdle

Motion: Rep. Hurdle moved an amendment to include "working" commission. #7

Motion: Rep. Holden moved a substitute motion and will include the Hurdle amendment. #8

Discussion: Reps. Mangan, Harris, Newman.

Vote: Motion #8 carried 15-3 with Reps. Shockley, Mangan and Noennig voting no.

Motion: Rep. Curtiss moved an amendment #9

Motion: Rep. Gutsche moved a substitute amendment #10. Rep. Gutsche withdrew her amendment.

Discussion: Reps. Noennig, Curtiss

Vote: Rep. Curtiss amendment carried unanimously 19-0.

Vote: Rep. Harris' motion #6, HB 66 DO PASS AS AMENDED carried 14-5 with Reps. Shockley, Laszloffy, Adams, Mangan and Noennig voting no.

EXECUTIVE ACTION ON HB 290

Motion: Rep. Harris moved HB 290 DO PASS #11

Motion/Vote: Rep. Harris moved amendments. #12 **EXHIBIT**(juh36a03) Motion carried unanimously 18-0.

Motion/Vote: Rep. Harris moved HB 290 DO PASS AS AMENDED #13. Motion carried unanimously 18-0.

EXECUTIVE ACTION ON HB 233

Motion/Vote: Rep. Newman moved to take HB 233 off the Table #14. Motion failed 9-11 with Reps. Shockley, Laszloffy, Adams, Clancy, Curtiss, Holden, Peterson, Rice, Thomas, Wolery and Younkin voting no.

EXECUTIVE ACTION ON HB 360

Motion: Rep. Clark moved HB 360 DO PASS. #15

Motion: Rep. Clark moved amendments **EXHIBIT**(juh36a04) #16

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Discussion: Rep. Clark explained the amendment. Rep. Laszloffy, Peterson, Hurdle, Noennig, Shockley asked questions of Mr. MacMaster.

Motion: Rep. Peterson moved a substitute motion #17 and then withdrew his motion.

Vote: Amendment Motion EXHIBIT(4) #16 carried unanimously 18-0.

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Motion/Vote: Rep. Noennig moved HB 360 DO PASS AS AMENDED.  
Motion carried unanimously 18-0.

ADJOURNMENT

Adjournment: 11:10 A.M.

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REP. JIM SHOCKLEY, Chairman

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MARY LOU SCHMITZ, Secretary

JS/MS

**EXHIBIT** (juh36aad)